

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY Case No.: 08-46367

ARC Venture Holding, Inc., et al.,

Chapter 7
(Jointly Administered)

Debtors.¹

Brian F. Leonard, Trustee,

Adv. Pro. No. 09-_____

Plaintiff,

v.

Faulkner's Auto Claims & Recovery, LLC,
Jonathan Faulkner, Gary Faulkner, and
Kathleen Faulkner,

Defendants.

COMPLAINT

The Plaintiff, by and through its undersigned counsel, states and alleges as follows:

1. The Plaintiff is the duly acting and qualified Trustee in the above-captioned Chapter 7 bankruptcy case.

2. Faulkner's Auto Claims & Recovery, LLC ("FACR") is, on information and belief, a limited liability company having its place of business at 200 North Walker Street,

¹ Jointly administered estates of the following Debtors: ARC Venture Holding, Inc., Case No. 08-46367; Southwest-Tex Leasing Co., Inc., d/b/a Advantage, Case No. 08-46368; Advantage Rent-A-Car, Inc., Case No. 08-46369; Coast Leasing Corp., Case No. 08-46370; Floral Leasing Corp., Case No. 08-46371; Iliad Leasing Corp., Case No. 08-46372; Miso Leasing Corp., Case No. 08-46373; Nugget Leasing Corp., Case No. 08-46374; Okra Leasing Corp., Case No. 08-46375; Rainier Leasing Corp., Case No. 08-46376; San Antonio Rental & Leasing Co., Inc.; Case No. 08-46377; Steamboat Springs Rental and Leasing Co., Inc., Case No. 08-46379; Sun Leasing Corporation, Case No. 08-46380; Tradewinds U-Drive, Inc., Case No. 08-46383 Ute Leasing Corporation, Case No. 08-46384; Advantage Licensing LLC, Case No. 09-40394.

Oakland Florida, 34760, and maintains a mailing address at P O Box 916, Oakland, Florida 34760.

3. Jonathan Faulkner is the President and is a managing member of FACR.

4. Kathleen Faulkner is a managing member and is, upon information and belief, an officer of FACR.

5. Gary Faulkner is, on information and belief, a member with management responsibilities and is an officer of FACR.

JURISDICTION

6. This Court has jurisdiction over this matter under 28 U.S.C. Sections 157 and 1334. This is a core proceeding.

GENERAL ALLEGATIONS

7. The Debtor operated a rental car business in several states. From time to time, vehicles in the Debtor's rental fleet would be damaged through accidents and/or other hazards.

8. Upon information and belief, FACR is in the business of contracting with clients for the collection and recovery of amounts owed its clients for damage to vehicles. FACR's collection activities included prosecuting subrogation claims against insurance companies and individuals who were responsible for causing damage to the client's automobiles.

9. FACR entered into one or more contracts with the Debtor, under which FACR became obligated to the Debtor to collect subrogation and other claims against third parties, and to remit to the Debtor the amounts of said collections.

10. On information and belief, FACR has prosecuted on behalf of the Debtor claims against third parties, and has collected in excess of \$107,000.00, which funds are property of the Debtor (the "Collections").

11. Despite demand made by the Plaintiff, FACR refuses, and continues to refuse, to turn over the amounts collected by FACR.

COUNT I

12. All of the allegations contained in preceding paragraphs are incorporated herein by reference.

13. FACR is contractually obligated to turn over the Collections, and FACR has refused, and continues to refuse, to turn over the Collections.

14. The Plaintiff has suffered damages in excess of \$107,000.00, or whatever additional amounts are proven at trial, resulting from FACR's failure to turn over the Collections.

COUNT II

CONVERSION AND MISAPPROPRIATION

15. All of the allegations contained in the preceding paragraphs are incorporated herein by reference.

16. FACR, through its officers and members identified as Defendants in the above caption, have converted and misappropriated to their own use, property of the Debtor consisting of the Collections.

17. By virtue of such conversion and misappropriation, the Plaintiff has been damaged in the amount in excess of \$107,000.00.

COUNT III

THEFT

18. All of the allegations contained in the preceding paragraphs are incorporated herein by reference.

19. The conversion and misappropriation by the Defendants of the collected funds, which are property belonging to the Debtor, constitutes theft under Florida Statutes. By virtue thereof, each of the Defendants is liable and obligated to the Plaintiff in the amount of \$107,000.00, or whatever additional amounts are proven at trial.

20. Under Florida Statutes, the Defendants are liable to the Plaintiff in the amount of \$107,000.00, or whatever additional amounts are proven at trial.

21. The actions of the Defendants described herein also constitute prohibited conduct under 18 U.S.C. Section 153.

WHEREFORE, the Plaintiff respectfully requests that the Court grant him the following relief:

1. As to Count I, judgment against all Defendants in the amount of \$107,000.00, or such additional amounts as proven at trial.
2. As to Count II, judgment against all Defendants in the amount of \$107,000.00, or such additional amounts as proven at trial.
3. As to Count III, judgment against all Defendants in the amount of \$107,000.00, or such additional amounts as proven at trial.
4. The Plaintiff further requests that the Court grant him such other and further relief as the Court deems just and equitable.

Dated: July 16, 2009

**LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.**

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